

1 all, like, can you do anything, Enrique, at your
2 level, to get this moving along?

3 Then somewhere in there it was, or else,
4 I've got to move on because I am killing myself.

5 Time elapsed and January rolled around and
6 it was like well, I'm still killing myself, I've got
7 to do something. Move on to something more positive.
8 That's when the decision was made.

9 MS. REPP: Your Honor, I hate to
10 interrupt, I guess we have been running now almost
11 until noon without a break, if perhaps we can schedule
12 a noon break?

13 JUDGE SIPPEL: -- is this an appropriate
14 time for a break for you?

15 MR. SHOOK: I have just a couple more
16 questions in this area and then we will be on a
17 different subject area.

18 JUDGE SIPPEL: Why don't we do that, we'll
19 clear up.

20 MS. REPP: Okay.

21 JUDGE SIPPEL: You'll need the witness
22 after lunch, also?

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1 MR. SHOOK: Oh, yes, sir, we have a ways
2 to go.

3 JUDGE SIPPEL: All right.

4 MR. SHOOK: Sorry, Judge.

5 BY MR. SHOOK:

6 Q Did you ever talk with Dave Evans about
7 why Golden Gate Public Radio was formed?

8 A No, I don't remember.

9 Q Did you ever talk with Jason Lopez about
10 why Golden Gate Public Radio was formed?

11 A No, I don't remember.

12 Q Did you ever talk with Mel Baker about why
13 Golden Gate Public Radio was formed?

14 A No, I don't remember.

15 Q Did you ever talk with Deirdre Kennedy
16 about why she joined Golden Gate Public Radio?

17 A No.

18 MR. SHOOK: Your Honor, we are at that
19 point.

20 JUDGE SIPPEL: Very well. We will break
21 for lunch. It's almost five after 12:00. I said an
22 hour and a half for lunch. Let's be back in the

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1 courtroom and ready to go at 1:35. But try and get in
2 the courtroom 5 minutes early so that the witness is
3 on the stand and we're all set to go. But 1:35 is
4 when we resume.

5 Okay. Do you think you will finish with
6 this witness today?

7 MR. SHOOK: I will have to talk faster.

8 JUDGE SIPPEL: I think it's appropriate,
9 in light of the fact that there hasn't been a break
10 particularly, and with the distances between here and
11 the places you will be going, I think an hour and a
12 half makes sense. Okay. We are on recess until 1:35.

13 (Whereupon the above-entitled matter went
14 off the record at 11:59 a.m. and resumed at 1:31 p.m.)

15 JUDGE SIPPEL: Mr. Ramirez, you're still
16 under oath here?

17 THE WITNESS: Yes.

18 JUDGE SIPPEL: Mr. Shook, more questions?

19 MR. SHOOK: Yes, Your Honor.

20 BY MR. SHOOK:

21 Q Mr. Ramirez, in your direct testimony,
22 which is SFUSD Exhibit T1 --

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1 A Yes.

2 Q -- I want to direct you to pages 8 and 9.

3 A Okay, I have that.

4 Q It seems to me that you're suggesting that
5 at least some of the difficulties that you had with
6 station staff, later in your tenure, had to do with
7 programming changes that you made?

8 A Yes.

9 Q All right. Counsel for the school
10 district, if you could place before Mr. Ramirez SFUSD
11 Exhibit 3.

12 MR. PRICE: It should be -- three in your
13 binder there.

14 THE WITNESS: Program guides?

15 MR. PRICE: Yes.

16 MR. SHOOK: I think from a pagination
17 standpoint, my questions are going to focus on
18 specific pages and it may be that --

19 MR. PRICE: The whole exhibit?

20 MR. SHOOK: -- I'm afraid.

21 MR. PRICE: No problem. Do you mind if I
22 just stay up here since it's my only copy?

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1 MR. SHOOK: Not a problem.

2 BY MR. SHOOK:

3 Q I want to direct your attention to SFUSD
4 Exhibit 3, pages 12 and 13. Then if you can keep that
5 in mind, also take a glance at this point at 36 and 37

6 --

7 A Okay.

8 Q -- 60 and 61.

9 A Okay.

10 Q -- 84 and 85.

11 A Okay.

12 Q -- then 108 and 109.

13 MR. PRICE: Your Honor, if I may approach
14 the witness again. I'm going to give him some flags
15 to mark all those pages so he can refer to them?

16 JUDGE SIPPEL: No problem.

17 MR. PRICE: Just want to speed things up
18 a little bit as we go through.

19 THE WITNESS: Can you state the pages
20 again?

21 MR. SHOOK: The last two pages were 108
22 and 109.

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1 MR. PRICE: We got those. If you could
2 just work backwards one more time.

3 MR. SHOOK: Oh, okay. Twelve and 13 was
4 the start.

5 MR. PRICE: Okay.

6 MR. SHOOK: Thirty-six, 37.

7 MR. PRICE: Okay.

8 MR. SHOOK: Sixty and 61, 84 and 85.

9 MR. PRICE: Okay.

10 BY MR. SHOOK:

11 Q Now, would I be correct that each set of
12 pages that I mentioned to you represents the proposed
13 schedule for programs that KALW intends to broadcast
14 during the three-month period covered by the program
15 guide?

16 A Yes.

17 Q Would I also be correct that where a
18 program is highlighted, the highlighted information
19 represents either a new program or a new time for that
20 program?

21 A Yes.

22 Q Were you the person who was solely

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1 responsible for adding or changing programs during the
2 periods noted on the program guides that we're looking
3 at?

4 A Yes, I would have been the person making
5 the final decision to make the program change.

6 Q Now, looking at the pages that we talked
7 about and just do these in sequence so the first pages
8 you'd be looking at are 12 and 13 and then you can go
9 to the next marked set of pages.

10 Could you try to recall for us what
11 programs were dropped as a result of any additions or
12 changes that you made, and if you can't remember
13 that's fine. It's just a matter of if you can
14 remember if you could tell us what the programs were -
15 - that were dropped.

16 A For the pages 12 and 13, I don't remember
17 what's not there.

18 Q Okay. How about 36 and 37? For that,
19 perhaps if you do a comparison between 12 and 13 and
20 36 and 37 that may tell you.

21 A On page 37, it appears as though Tangents
22 -- Weekend Tangents on Saturdays from 7:00 to 10:00 is

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1 new and that would have replaced three programs,
2 Worlds of Music, Jazz Sets, and Jazz from Lincoln
3 Center.

4 Q All right. And then if you compare 36 and
5 37 with 60 and 61.

6 A It looks like Sundays from 3:00 to 4:00
7 the new program is This American Life and it replaced
8 Sunday Afternoon Specials. Sundays from 7:00 to 8:00
9 two new programs were the Bookworm and What's the Word
10 replaced, or it looks like This American Life moved up
11 to 3:00.

12 Will the Circle be Unbroken on Mondays at
13 1:00 replaced BBC Programs. Mondays at 8:30 a program
14 called SF Literary -- I can't make out that word.

15 Q It looks like Society.

16 A Society replaced Enterprising Women. It
17 looks like on Thursday at 1:00 a program called
18 Secrets of Global Trade replaced Counter Spin and I
19 think that's Think Tank.

20 Q All right. Then if you compare 60 and 61
21 with 84 and 85.

22 A It looks like on Sundays at 7:00 Minds

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1 Over Matter replaced The Bookworm and What's the Word.
2 Monday it looks like Alistair Cook's Letter from
3 America started airing at 8:45 a.m., which meant it
4 would've replaced a segment of Morning Edition at 8:45
5 a.m.

6 Fresh Air started airing at 9:00 Monday
7 through Friday replacing BBC News. Open Air started
8 airing Monday through Friday at 10:00 replacing a
9 series of weekly programs, Living on Earth,
10 TechNation, Real Computing, BBC, BBC, and AIDS
11 Update/Health News. Monday through Friday at 2:00 it
12 looks like BBC World News Hour replaced Fresh Air.
13 Well, Fresh Air moved to 9:00. I believe those are
14 all the changes in that period.

15 Q Finally, comparing 84 and 85 with 108/109.

16 A It looks like on Sundays from 6:00 to 8:00
17 the new program's BBC Science, which replaced Canadian
18 Broadcasting Sunday Morning. Then CBC This Morning,
19 new program airing from 8:00 to 11:00, replaced that
20 same Canadian Broadcasting Sunday Morning.

21 Work with Marty Nemko started airing
22 Sundays at 11:00 replacing same program Canadian

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1 Broadcasting Sunday Morning. Mondays at 8:30 Says You
2 replaced San Francisco Literary Society. Tuesdays at
3 8:00 p.m. the Merrill Report replaced School and Career
4 Talk with Marty Nemko. Those are all the changes.

5 MR. PRICE: Your Honor, can I just ask
6 that the record reflect that Mr. Ramirez was answering
7 the question based on his review of the documents in
8 front of him and comparing one quarter's program guide
9 to the previous one, rather than as Mr. Shook asked if
10 he had an independent recollection of what programs
11 were replaced.

12 JUDGE SIPPEL: All right. That's -- you
13 said what we've just observed, so --

14 BY MR. SHOOK:

15 Q Now, Mr. Ramirez, as we understand it
16 Golden Gate Public Radio was formed by Dave Evans, Mel
17 Baker, and Jason Lopez and as we further understand
18 it, Mr. Evans formerly resigned at some point and
19 Deirdre Kennedy took his place.

20 The programming changes that we just
21 discussed -- did any of these programming changes
22 affect Dave Evans?

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1 A No.

2 Q Did any of these programming changes
3 affect Mel Baker?

4 A No.

5 Q Did any of these programming changes
6 affect Jason Lopez?

7 A No.

8 Q Did any of these programming changes
9 affect Deirdre Kennedy?

10 A No.

11 Q Did any of these programming changes have
12 an impact on Susan Hecht so far as you know?

13 A No.

14 Q Now, in your direct testimony SFUSD
15 Exhibit T1 at page 10 you state that SFUSD Exhibit 5
16 is the renewal application that you sent to the FCC.
17 If you need to confirm that -- if you want to show him
18 SFUSD Exhibit 5.

19 MR. PRICE: That should be Tab 5 in your
20 replicated file.

21 THE WITNESS: Okay, I see that.

22 BY MR. SHOOK:

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1 Q Do you recall -- I -- we had touched upon
2 this before, but my question was probably in a
3 slightly different context. When you received the
4 blank FCC Application Form 303S, did it come with a
5 set of instructions as to how to fill out the
6 application?

7 A I don't remember if it did.

8 Q Do you know at any time whether you
9 actually reviewed a set of instructions in the course
10 of filling out the 303S?

11 A I don't remember getting anything that I
12 remember distinctly as something titled Instructions.

13 MR. SHOOK: Your Honor, I want to mark as
14 proposed exhibit for the Bureau -- I believe we are up
15 to 58.

16 JUDGE SIPPEL: Hold on just a second. Let
17 me get my list. Yes, according -- I would agree with
18 58. Do you want to identify what you have and --

19 MR. SHOOK: Yes. It's a six-page document
20 entitled Instructions for FCC 303S. I'm going to give
21 two to the court reporter, one to counsel for SFUSD
22 and then give one to the witness.

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1 JUDGE SIPPEL: Proceed.

2 MS. REPP: Is there a date?

3 MR. SHOOK: Yes. It says FCC 303S
4 Instructions June 1995, and if you look at the renewal
5 application that you got, it should also have on the
6 bottom right hand corner FCC 303S for June 1995. Your
7 Honor, I'll give one to you as well.

8 JUDGE SIPPEL: Thank you. The court will
9 mark that document for identification as Bureau No.
10 58.

11 (Whereupon, the document
12 referred to was marked for
13 identification as Bureau
14 Exhibit No. 58.)

15 BY MR. SHOOK:

16 Q Mr. Ramirez, my co-counsel has handed you
17 a copy of proposed Bureau Exhibit 58. Do you
18 recognize this document?

19 A No, it doesn't look familiar.

20 Q So you don't recall reviewing instructions
21 while you were filling out the Form 303S?

22 A No.

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1 Q Mr. Ramirez, in your direct testimony at
2 SFUSD Exhibit T1 at page 11 --

3 A Okay.

4 Q You acknowledge that you did not review
5 the Public Inspection File until months after your
6 August 1996 conversation with Dave Evans. We're not
7 talking about two or three months are we?

8 A Yes. We're talking about the time when I
9 started work on completing the license renewal
10 application.

11 Q So that was more like eight or nine
12 months?

13 A Yes.

14 Q Were you aware of an election in November
15 1996 concerning the make-up of the Board of Education?

16 A No.

17 Q At what point in time did you become aware
18 that an election had taken place in November 1996?

19 A I don't have a distinct memory of when I
20 became aware that there had been an election and then
21 a change of the Board of Education composition, but I
22 know I must've been aware because that was a part of

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1 the information that was included in the ownership
2 report.

3 Q Did anyone ever tell you following the
4 November 1996 election that it may be necessary to
5 update the station's ownership information by
6 preparing and filing with the FCC a Supplemental
7 Ownership Report?

8 A I don't remember.

9 JUDGE SIPPEL: Can you speak up on that a
10 little bit?

11 THE WITNESS: Sure. I don't remember.

12 BY MR. SHOOK:

13 Q Do you recall speaking with anyone
14 following the November of 1996 election that it may be
15 necessary to update the station's ownership
16 information by placing an updated Supplemental
17 Ownership Report in the KALW public inspection file?

18 A No, I don't remember.

19 Q Did you ever prepare a Supplemental
20 Ownership Report for KALW after the November 1996
21 election?

22 A Yes, as part of the license renewal --

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1 completing the license renewal application.

2 Q Did you put a copy of that Supplemental
3 Ownership Report in connection with the 1996 election
4 in the station's public file about the time you filled
5 out the renewal application?

6 A Yes.

7 Q Now, when you became general manager, were
8 you aware of any obligation to update the Public
9 Inspection File with quarterly issues programs lists?

10 A No.

11 Q Did there come a time after you became
12 general manager when an obligation to update the
13 Public Inspection File with quarterly issues programs
14 list was brought to your attention?

15 A Yes.

16 Q Approximately when did that occur?

17 A At the time I was completing the license
18 renewal application.

19 Q Prior to your becoming aware of the
20 station's obligation to update the Public Inspection
21 File, did anyone during your tenure as general manager
22 put quarterly issues programs lists into the station's

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1 Public Inspection File?

2 A Not that I remember.

3 Q When you became aware that the licensee
4 had an obligation to update the station's Public
5 Inspection File with quarterly issues programs lists,
6 what did you do?

7 A When I became aware that we needed to
8 place information in our Public Inspection File, what
9 I did to our coverage of important community issues I
10 asked producers -- the one I remember specifically is
11 John Covell, to create program lists to place in the
12 file.

13 Q Prior to receiving the station's renewal
14 application from the FCC, was there anybody at the
15 station who so far as you knew took responsibility for
16 maintaining the Public Inspection File in any way?

17 A Can you ask the question again please?

18 Q Prior to receiving the station's renewal
19 application from the FCC, was there anybody at the
20 station who so far as you knew took responsibility for
21 maintaining the Public Inspection File in any way?

22 A No, I did not.

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1 Q On page 12 of your testimony, SFUSD
2 Exhibit T1 at page 12, and as we've just discussed,
3 your first look essentially at the Public Inspection
4 File occurred after you read the renewal application
5 question about the public file.

6 Are you telling us that you did not read
7 the instructions for the renewal application form at
8 that time?

9 A I don't -- these instructions don't look
10 familiar, so I don't remember reading them.

11 Q When you say these instructions don't look
12 familiar, are you suggesting that there were some
13 instructions of some kind that you did look at in
14 connection with filling out the renewal application?

15 A I don't remember. What I remember is
16 reviewing the regulations.

17 JUDGE SIPPEL: You must be sure that this
18 is context. Now he's referring to EB Exhibit 58 as
19 that which he has no recollection of. Is that right?

20 THE WITNESS: Correct.

21 JUDGE SIPPEL: But you mentioned having
22 seen some other form of instructions?

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1 THE WITNESS: On no, 58 --

2 MR. SHOOK: I was basing my question on
3 what I thought I was hearing from Mr. Ramirez in terms
4 of he doesn't recall seeing EB 58, but it sounded as
5 if he may have seen some kind of instructions for
6 filling out the form, and I was trying to flush out
7 whether that was so, and if so, what those
8 instructions might have been.

9 JUDGE SIPPEL: All right.

10 THE WITNESS: I don't remember
11 specifically what instructions I might have reviewed
12 at the time. I remember reviewing the application
13 itself and then the regulations that were cited after
14 each question.

15 MR. SHOOK: Now, according to EB Exhibit
16 1, the FCC mailed a renewal application packet to the
17 station on May 15, 1997. I want you to, even though
18 you've told us now repeatedly you don't remember
19 seeing EB 58, I want you to go to pages 4 and 5 of EB
20 58.

21 JUDGE SIPPEL: This is just marked. Now
22 are you going to move this in at this point or do you

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1 want to wait?

2 MR. SHOOK: No, I want to wait.

3 JUDGE SIPPEL: All right. What page?

4 MR. SHOOK: It's pages 4 and 5. The page
5 numbering appears in the bottom left.

6 BY MR. SHOOK:

7 Q It's a little bit fuzzy, but -- the
8 question that I want you to focus on is the section 3,
9 question 2. If you could just read to yourself the
10 instructions for question 2, which start at the bottom
11 of page 4 and carry over to page 5.

12 A Okay.

13 Q Having read the instructions for question
14 2, does this help jog your memory as to whether or not
15 you referred to these instructions before filling out
16 the renewal application section 3, question 2?

17 A No, it doesn't look familiar.

18 Q Do you see the rule references though to
19 section 733526 and 733527?

20 A Yes, I see that.

21 Q Did you read one or both of those rules?

22 A Yes, I think those are the rules that are

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1 cited in the renewal application next to the question.

2 Q Do you have an understanding as to why
3 there are two different rule sections noted there?

4 A Yes. Today I know that one is for, I
5 think, commercial stations and one is for non-
6 commercial stations.

7 Q Did you read both rules or just the one
8 pertaining to non-commercial stations?

9 A I remember reading both.

10 Q In addition to reading the rules, do you
11 recall whether there was anything else that you read
12 in order to try to give you guidance in terms of how
13 to answer the renewal application question?

14 A Yes. Like I said in my 1998 declaration
15 I also remembered reading through a memo that National
16 Association of Broadcasters put out regarding the
17 Public Inspection File.

18 Q I'd like you to direct your attention to
19 SFUSD Exhibit 6.

20 MR. PRICE: Can you tell me what document
21 that is so I know what I need to look over his
22 shoulder?

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1 MR. SHOOK: It's the October 4, 1997 memo
2 to Ernie Sanchez from Jeff Ramirez and the associated
3 pages.

4 MR. PRICE: Thank you.

5 BY MR. SHOOK:

6 Q The pages that I would like you to focus
7 on with respect to that Exhibit would be pages 7 and
8 8.

9 A Okay.

10 Q Was this material that you would review
11 prior to filling out the renewal application question
12 section 3, question 2?

13 A No, I don't think so.

14 Q So you're referring to an NAB handbook of
15 some kind? What was it? I didn't catch it all.

16 A Yes, I think what I said in my declaration
17 was that it was an NAB memo from counsel or something
18 like that.

19 Q In the materials that you have with your
20 renewal packet and what you had reviewed beforehand,
21 do you recall whether or not you saw that NAB Handbook
22 material that you're now referring to?

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1 A I'm not sure if I understand your
2 question.

3 Q Okay. I mean I'd like to be able to show
4 you what you're referring to, and I haven't been able
5 to find it. I was just wondering if it was material
6 that --

7 A I think somewhere in the exhibits is what
8 we think is an example for what --

9 Q An example. Okay. We understood what was
10 in the exhibits to be something that came into being
11 later. You know, sometime after the renewal
12 application would have been prepared and signed, but
13 we haven't been able to locate the actual material
14 that would have been in existence at the time you
15 looked at the renewal application.

16 I was just wondering if it has since come
17 to your attention.

18 A No.

19 MR. SHOOK: Your Honor, what I'm bringing
20 to Mr. Ramirez after showing counsel for SFUSD is the
21 rules that would have been in existence at the time
22 the renewal application was filled out pertinent to

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1 the Public Inspection File.

2 JUDGE SIPPEL: Okay.

3 BY MR. SHOOK:

4 Q Mr. Ramirez, the material that was handed
5 to you, the book that was handed to you, has Rule
6 733527 tabbed for your convenience. Is that a rule
7 that you reviewed prior to filling out renewal
8 application section 3, question 2?

9 A Yes. The way this is formatted does look
10 familiar.

11 MR. SHOOK: Your Honor, may I approach the
12 witness:

13 JUDGE SIPPEL: You may.

14 MR. SHOOK: Mr. Ramirez, I'd like you to
15 focus your attention on Subsection A7, which appears
16 on page 292 of the book that I've handed to you.

17 JUDGE SIPPEL: What's the full section
18 that he's looking at, 73. --

19 MR. SHOOK: 73.3527 --

20 JUDGE SIPPEL: Thank you.

21 MR. SHOOK: -- A7.

22 BY MR. SHOOK:

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1 Q Would you read that section out loud
2 please?

3 A Seven. For non-exempt, non-commercial
4 educational broadcast stations, every three months a
5 list of programs that have provided the station's most
6 significant treatment of community issues during the
7 preceding three-month period.

8 The list for each calendar quarter is to
9 be filed by the tenth day of the 16-calendar quarter,
10 e.g., January 10 for the quarter October-December,
11 April 10 for the quarter January-March, etc. The list
12 shall include a brief narrative describing what issues
13 were given significant treatment and the programming
14 that provided this treatment.

15 The description of the programs should
16 include, but is not limited to, the time, date,
17 duration, and title of each program in which the issue
18 was treated.

19 Q Had you read that before filling out
20 section 3, question 2 of the renewal application?

21 A Yes. I must have read this as part of
22 reviewing the regulation and answering the question.

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